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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,439	01/31/2002	Eljas Saastamoinen	OUTO 2367	3399

7812 7590 06/30/2003

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EXAMINER

PATEL, HARSHAD R

ART UNIT PAPER NUMBER

2855

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/980,439

Applicant(s)

SAASTAMOINEN ET AL.

Examiner

Harshad Patel

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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***Specification***

1. The disclosure is objected to because of the following informalities: On page 1 line 5, applicant refers to a claim. It is advised not to use claim numbers in the specification as the claim numbers change during the length of prosecution. Appropriate correction is required.

***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

At page 3 line 17, applicant refers to a patent publication CA 1,218,772 however there is no clear explanation as to what this reference is.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-23, 25-30, 32-43, and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schofield (2,033,306) in view of Faivre et al. (5,282,389) (hereinafter Faivre). Schofield teaches a sensing device including a structure in form of a drain chute (12) defining an outlet opening (13) having a horizontal dimension and a vertical dimension and a flow measuring

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arrangement (14). The flow measuring arrangement comprising an elongate structure having a length dimension extending over the entire vertical dimension of the outlet opening, a measuring device in form of an angle transmitter for detecting (col. 2, lines 46-49), a calibration means (24) including a movable weight element attached to the sensor element and an indicating and recording device (col. 2, lines 36-41) and such an indicating and recording device could very well be any one of a display system such as a chart or a computer monitor. As to the claim related to a collecting pipe, Schofield teaches a reservoir or a wide container (Fig. 6). The sensor element is positioned to the structure to move pivotally on a horizontal shaft (16) and allow angular movement. Schofield does not teach the sensor element having a width dimension that is parallel to the horizontal dimension of the opening and substantially less than the horizontal dimension of the opening. Faivre teaches a sensor element that has a sensor element (102) having a width dimension that is parallel to the horizontal dimension of the outlet opening and is substantially less than the horizontal dimension of the outlet opening. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make a sensor element having such a structure as claimed since it is nothing more than a modified structure of the sensing element that is being actuated by the flowing medium. In either case the sensing element would be moved or pivoted from the axis of the horizontal shaft on which the sensing element is supported and thus provide a movement signal by the measuring device.

5. Claims 24, 25, 31, 32, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schofield in view of Faivre and further in view of Martina et al. (6,367,336) (hereinafter Martina).

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Schofield shows all the features of the instant invention as claimed except for explicitly teaching of the control system. Martina teaches a sensing device including a control system (13) and a display unit (14). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a control and display system for the indicating and recording device of Schofield since such systems are notoriously well-known in the flow measuring art for controlling the flow or the movement of the sensing element and to display or record the data for future use.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Conley (6,212,958) teaches a sensing device including a sensor element positioned at the outlet of structure and having control and display means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harshad Patel whose telephone number is (703) 305-4935. The examiner can normally be reached on Monday-Thursday (7:00 AM-5:30 PM).



*Harshad Patel  
Primary Examiner  
Art Unit 2855*

hp  
June 24, 2003